

SUBCHAPTER B : CLASSES OF PERMITS

§§297.11-297.20

Effective June 28, 1996

§297.11. Permit Under Texas Water Code, §11.121.

A Texas Water Code, §11.121, permit authorizes the appropriation of state water on a repetitive year-round basis or for a term of years. If for a term of years, it does not vest the holder with any permanent water right and expires under its own terms.

§297.12. Seasonal Permit Under Texas Water Code, §11.137.

A seasonal permit limits the diversion of state water to the portion or portions of the calendar year stated in the permit. (This type of permit is usually granted where irrigation is desired for seasonal crops or where the applicant proposes to appropriate water to fill an off-channel reservoir during the wet season for later use.)

§297.13. Temporary Permit Under Texas Water Code, §§11.138 and 11.153 - 11.155.

A temporary permit, as its name implies, is short-lived in nature and designed for purposes of a temporary nature. A temporary permit may not be granted for a period of time exceeding three years. This permit does not vest in the holder any permanent right to the use of state water and expires in accordance with its terms. (It is primarily designed for those persons who require state water for highway construction, oil or gas well drilling projects, evaluation of Phase I of an aquifer storage and retrieval project, and other types of short duration projects.) Temporary permits may be issued for beneficial purposes to the extent that they do not interfere with or adversely affect prior appropriations or vested rights on a stream. The period of time to use water authorized by a temporary permit which was initially granted for a period of less than three years may be extended, but in no event shall the entire period exceed three years nor shall an extension of time seek a change of diversion rate, diversion point, or additional water.

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§297.14. Contractual Permit.

A contractual permit authorizes the use of state water where the source of supply is water lawfully authorized for the use of another person and a written agreement has been entered into with said person. The permit is for a period of time limited by the contract, and no permanent right is acquired by the holder. Although some contractual permits are still in existence, they are no longer being issued by the commission. See Subchapter J of this chapter (relating to Water Supply Contracts and Amendments).

§297.15. Permit Under Texas Water Code, §11.143.

A Texas Water Code, §11.143, permit authorizes anyone owning a dam or reservoir on his or her own property which impounds or contains not more than 200 acre-feet of water for domestic and livestock purposes, to take state water therefrom for any lawful purpose authorized in the permit. (A permit is not required to use water from such a reservoir for domestic and livestock use.) Reservoirs on navigable streams are not exempt under Texas Water Code, §11.142. Application requirements and procedures are less detailed than those required for Texas Water Code, §11.121, permits. It may be permanent in nature, seasonal, or granted for a term of years. The owner of an exempt impoundment under Texas Water Code, §11.142, who subsequently desires to use state water therefrom for other than domestic and livestock purposes may elect to apply for a permit under Texas Water Code, §11.143, or proceed under the provisions of Texas Water Code, §11.124, et seq.

§297.16. Permit for Storage (Texas Water Code, §11.140).

A permit for storage is a permit issued by the commission solely for the purpose of optimum development of a project. Upon application this type of permit may be converted to a permit for beneficial use.

§297.17. Emergency Permit (Texas Water Code, §11.139).

An emergency permit authorizes the appropriation of state water for a period of not more than 30 days to alleviate conditions which threaten the public health, safety, and welfare.

§297.18. Interwatershed Transfers.

A permit is required to transfer state water from one named river basin or coastal basin to another. See Texas Water Code, §11.085.

§297.19. Term Permit Under Texas Water Code, §§11.1381 and 11.153 - 11.155.

The commission may grant a permit for a limited term of years when it determines that inadequate water is available in the source of supply on a perpetual basis to satisfy an application but that adequate water is available on a limited basis due to the underutilization of existing water rights in the source of supply. The commission may grant a permit under this section for an aquifer storage and retrieval project as defined in §297.1 of this title (relating to Definitions).

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§297.20. Permit for Diversion from Un-sponsored or Storage-Limited Reservoirs.

A permit is required to divert state water from a reservoir constructed by the federal government for which no local sponsor has been designated nor permit issued or a reservoir permitted for storage solely for the purpose of optimum development of the project. See Subchapter D, §§297.31-297.32 of this chapter (relating to Diversion from Un-sponsored or Storage-Limited Reservoirs).